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SAPC-10497
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NEGOTIATED CONTRACT

Hycon Mfg. Company
2961 Colorado Street
Pasadena 8, California

Contract No. BC-450 35
DOCUMENT NO. NO CHANGE IN CLASS. ☒ DECLASSIFIED
CLASS. CHANGED TO: TS S C 2011
NEXT REVIEW DATE:
AUTH: HR 76-2
DATE: 22 JUN 1981 REVIEWER: 064540

25X1

Contract For: See Schedule

Amount \$150,000
(Estimated)

Mail Vouchers To:

Performance Period:
See Schedule

Administrative Data:

This contract is entered into by and between the United States of America, hereinafter called the Government represented by the Contracting Officer executing this contract, and the above-named Contractor which is a Corporation incorporated in the State of Delaware, hereinafter called the Contractor.

The parties hereto agree that the Contractor shall furnish the facilities and deliver all supplies and perform all the services set forth in the attached schedule issued hereunder, for the consideration stated herein.

The rights and obligations of the parties to this contract shall be subject to and governed by the attached Schedule, Appendix I and General Provisions, which together with this signature page and the accompanying certificate comprise this Contract No. BC-450. In the event of any inconsistency between the schedule and the General Provisions, the Schedule shall control.

IN WITNESS WHEREOF, the parties hereto have executed this contract as of 20 September 1956.

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HYCON MFG. COMPANY**THE UNITED STATES OF AMERICA**

BY

BY

Contracting Officer

TITLE

Exec. Vice President

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25X1

Distribution:Orig. - ☐ T&M - BC-450

5. - Chrono

2. - Contractor

6. - ☐

3. - Finance

4. - Extra (retained in contracts)

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C E R T I F I C A T E

I, certify that I am the Assistant Secretary of the Corporation named as Contractor herein; that W. C. McFadden who signed this contract on behalf of the Contractor was then Vice President of said Corporation; that said contract was duly signed for and in behalf of said Corporation by authority of its governing body, and is within the scope of its Corporate powers.

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(Corporate Seal)

signature

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SCHEDULE

PART I - SERVICES AND SUPPLIES TO BE FURNISHED BY THE CONTRACTOR

The Contractor shall provide all necessary equipment, tools, and minor items of material and shall furnish the services of all necessary qualified personnel required to efficiently and expeditiously operate and maintain a plant facility for performing modifications, repairs and overhauls of equipment of the types and kinds produced and delivered under a separate contract between the Contractor and the Government. The Contractor shall also provide liaison with other suppliers of related equipment and shall furnish "in-plant engineering" to analyse equipment during modification, repair and overhaul to determine causes of all technical difficulties or malfunctions and shall furnish engineering data thereon such as service bulletins, modification data, and technical solutions to problems which will facilitate and support successful field operations. All major items of materials required for modification, repair, or overhaul of the equipment will be available to the Contractor as Government furnished material from the spare parts inventory to be provided and maintained by the Contractor under a separate contract between the Contractor and the Government. Work and services such as special lens repair processing, plating, engraving, refinishing, raw materials to produce parts and the purchase of parts not available from the spare parts inventory will be obtained by the Contractor under subcontract.

PART II - PERFORMANCE OF SERVICES

(a) The extent and character of the work to be done by the Contractor under this contract shall be subject to the general supervision, direction, control and approval of the Contracting Officer or his authorized representative, to whom the Contractor shall report and be responsible. In the event there should be any dispute with regard to the extent and character of the work to be performed, the matter shall be determined as provided in General

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Provision 8, Disputes.

(b) The Contractor agrees to furnish sufficient personnel of the labor categories specified in Appendix 1 hereof, as well as supervisory and administrative personnel to assure successful prosecution of the work.

(c) All operations under the terms of this contract will be done in an efficient and workmanlike manner and by qualified personnel of the Contractor's organization who are thoroughly familiar with the type of work being performed.

(d) Services required by the Contractor and performed by the Contractor's personnel of the labor categories specified in Appendix 1 will be considered Direct Labor under this contract.

PART III- RELATED WORK AND SERVICES

In addition to the services and supplies to be provided above, the Contractor will perform such other work and services as may be requested by the Contracting Officer or his authorized representative and agreed to by the Contractor, which are necessary to ensure timely performance of the contract work.

PART IV - CONSIDERATION AND PAYMENTS

(a) As of the date of execution of this contract there has been allotted for this contract the amount of \$150,000. The total amount payable to the Contractor under this contract shall not exceed this amount without written authorization from the Contracting Officer.

(b) In accordance with the clause of this contract entitled "PAYMENTS", the Contractor shall be paid as follows:

(1) For work and services performed by the Contractor's personnel of the labor categories set forth in Appendix 1, the Contractor shall be paid the applicable hourly rates stated in the column entitled "Contract Hourly Rate", in Appendix 1, for each Direct Labor hour of work or services actually performed hereunder by such personnel. The time of non-productive personnel will not be included in direct labor, and the Contractor agrees that only direct labor of

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its personnel of the labor categories designated in Appendix 1, engaged in the work called for by this contract will be included in its billings hereunder.

(2) For materials and supplies furnished by the Contractor or subcontractors under this contract, other than minor items of materials and supplies to be provided without direct cost to the Government, the Contractor shall be reimbursed at actual cost. Materials and supplies, other than minor items of materials and supplies withdrawn from the Contractor's stock for use on this contract, may be charged at prices determined by the Contractor's established method of pricing for its other business. No amount representing profit shall be added to the cost or price of supplies or materials furnished under this contract.

(3) For related work and services performed hereunder by the Contractor, payment shall be made in accordance with Paragraph (d) of Clause 4, Payments, of the General Provisions.

(c) It is hereby agreed that the "Contract Hourly Rates" as specified in Appendix 1 are based on straight time wages of Contractor's employees directly engaged in the performance of work under this contract and include all applicable overhead, General and Administrative Expense and Profit. In the event overtime work is determined to be necessary for the performance of the work and is specifically authorized by the Contracting Officer or his authorized representative, it is understood and agreed that the premium portion of any such overtime pay shall be charged to overhead in accordance with the Contractor's established accounting practices.

(d) In the event the Contractor's total billings as determined under this PART IV and the PAYMENTS clause in the General Provisions of this contract for any quarterly period consisting of three (3) successive regular monthly billing periods hereunder are less than \$15,000, the Contractor may present a minimum

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billing of \$15,000 for such period in lieu of the Contractor's total actual charges for the three (3) months within said quarterly period. For the purpose of defining quarterly periods hereunder, the first quarterly period shall consist of the first three successive regular monthly billing periods (i. e. July, August and September), the next quarterly period will consist of the second three successive regular monthly billing periods (i. e., October, November and December), etc. No minimum charge will be paid for a period comprising less than three successive regular monthly billing periods; however, the Contractor will be paid actual charges for each month or part thereof for such lesser period.

The Contractor's billings shall be made monthly and shall be for actual ^{hours worked and} cost. *material.* *K.O.N. wen*
 In the event the billing for the third month of a quarter when added to the two preceding month's billings of the same quarter total less than \$15,000, the Contractor's billing for the third month may show an amount added thereto pursuant to this clause and in addition to the total ^{computed billings} actual cost which will *wen* result in a total billing of \$15,000 for the quarterly period. *K.O.N.*

PART V REPRICING

(a). In view of the fact that the Contractor's overhead and general and administrative expense rates are revised from time to time based on cost studies performed, the "Contract Hourly Rates" set forth in Appendix 1 are also subject to revision, as follows:

The "Contract Hourly Rates" shall be fixed for the period from the inception of this contract to 31 January 1957, and shall apply provisionally thereafter until new overhead and general and administrative expense rates have been negotiated between the Contractor and the Contracting Officer. Based on these new overhead and general and administrative expense rates, new fixed "Contract Hourly Rates" for the same period of time, shall be negotiated for incorporation into this contract by an amendment hereto.

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b. Any failure on the part of the parties hereto to agree to any such revisions shall be considered a dispute concerning a question of fact within the meaning of the article of this contract entitled "Disputes." Pending settlement of such dispute, the Contractor shall diligently proceed with the performance of the subject work hereunder.

PART VI PERIOD OF PERFORMANCE

This contract shall expire on 30 June 1957; however, the Government shall have the option of renewing this contract for the period 1 July 1957 to 30 June 1958, subject to the availability of Fiscal Year 1958 funds for this purpose.

PART VII ANTICIPATORY COSTS

All costs which have been incurred by the Contractor on or after 1 July 1956, in anticipation of and prior to the signing of this contract, and which, if incurred after the signing of this contract, would have been considered as allowable charges hereunder, will be accepted by the Contracting Officer under this contract.

PART VIII SPECIAL SECURITY RESTRICTIONS

The Contractor shall not reveal (i) the specific nature or any details of the work being performed hereunder or (ii) any information whatsoever with respect to the department of the Government sponsoring this contract and the work thereunder except as the Contractor is directed to reveal such information by the Contracting Officer or by his duly authorized representative for security matters, and, notwithstanding any clause or section of this contract to the contrary, the Contractor shall not interpret any clause or section of this contract as requiring or permitting divulgence of such information to any person, public or private, or to any officer or department of the Government without the express consent of the Contracting Officer or his duly authorized representative for security matters.

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PART IX WAIVER OF REQUIREMENTS OF GENERAL PROVISIONS

Notwithstanding the requirements of any of the General Provisions of this contract to the contrary, whenever the Contractor, in performance of the work under this contract, shall find that the requirements of any of the clauses of the General Provisions are in conflict with security instructions issued to the Contractor by the Contracting Officer or by his duly authorized representative for security matters, the Contractor shall call the attention of the Contracting Officer to such conflict and the Contracting Officer or his duly authorized representative for security matters shall (i) modify or rescind such security requirements or (ii) the Contracting Officer shall issue to the Contractor a waiver of compliance with the requirements of the General Provisions conflicting with such security requirements. Any waiver of compliance with the General Provisions of this contract issued by the Contracting Officer shall be in writing, except that the approval by the Contracting Officer of any subcontract issued hereunder by the Contractor shall be deemed to constitute approval of waiver of any clauses of the General Provisions in conflict with the stipulations of such subcontract.

APPENDIX I

<u>Grade</u>	<u>Job Code</u>	<u>Job Classification</u>	<u>Hourly Basic Rate</u>	<u>Burden at 150%</u>	<u>Cost</u>	<u>G & A at 10%</u>	<u>Total Cost</u>	<u>Profit at 10%</u>	<u>Contract Hourly Rate</u>
1	075 110	Project Engineer Research Engineer	\$ 5.50	8.25	13.75	1.37	15.12	1.51	16.63
2	064 165	Engineer, Senior Technical Writer, Sr.	4.62	6.93	11.55	1.15	12.70	1.27	13.97
3.	065 100 146 166	Engineer, Intermediate Chief Inspector Photographer, Senior Technical Writer	3.90	5.85	9.75	.97.	10.72	1.07	11.79
4	066 147	Engineer, Junior Photographer	2.89	4.33	7.22	.72	7.94	.79	8.73
5	295	Draftsman, Design	2.95	4.42	7.37	.74	8.11	.81	8.92
6	303 310 330 340 355	Engineering Aide, Sr. Draftsman, Layout Technical Illustrator Electronic Technician, Sr. Photographic Technician, Sr.	✓ 2.55	✓ 3.82	✓ 6.37	✓ .64	✓ 7.02	✓ .70	✓ 7.72
7	300 345 360 500 535	Engineering Aide Electronic Technician Photographic Technician Draftsman, Detail Technical Illustrator, Jr.	2.20	3.30	5.50	.55	6.05	.60	6.65

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<u>Grade</u>	<u>Job Code</u>	<u>Job Classification</u>	<u>Basic Rate</u>	<u>Burden at 150%</u>	<u>Cost</u>	<u>G & A at 10%</u>	<u>Total Cost</u>	<u>Profit at 10%</u>	<u>Contract Hourly Rate</u>
8	305	Engineering Aide, Jr.	\$1.85	2.77	4.62	.46	5.08	.51	5.59
	315	Draftsman, Jr.							
	350	Electronic Technician, Jr.							
	365	Photo Technician, Jr.							
	515	Clerk-Department							
9	520	Technical Typist	1.60	2.40	4.00	.40	4.40	.44	4.84
	380	Clerk-General							
10	320	Tracer	1.45	2.17	3.62	.36	3.98	.40	4.38
11	845	Experimental Machinist	2.80	4.20	7.00	.70	7.70	.77	8.47
	960	Tool & Die Maker							
	850	Research Mechanic							
12	730	Grinder, Precision	2.55	3.82	6.37	.64	7.01	.70	7.71
	770	Inspector, Precision							
	830	Machinist, Precision							
	935	Inspector, Electronics Systems							
	990	Welder, Combination							
13	705	Assembler, Precision	2.15	3.22	5.37	.54	5.91	.59	6.50
	785	Inspector, Machined Parts							
	805	Welder, Plating							
	840	Machinist, Specialist							
	920	Inspector, Electronics, Sr.							
	975	Spray Painter, Specialist							
	995	Welder, Specialist							
14	755	Inspector, Assembly & Test	1.80	2.70	4.50	.45	4.95	.49	5.44
	820	Machine Operator							
	890	Spray Painter							

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<u>Grade</u>	<u>Job Code</u>	<u>Job Classification</u>	<u>Basic Rate</u>	<u>Burden at 150%</u>	<u>Cost</u>	<u>G & A at 10%</u>	<u>Total Cost</u>	<u>Profit at 10%</u>	<u>Contract Hourly Rate</u>
14 (con'd)	925 970 965	Inspector, Electronics Vat Tender Truck Driver	\$1.80	2.70	4.50	.45	4.95	.49	5.44
15	700 760 950	Assembler, General Inspector Helper	1.70	2.55	4.25	.42	4.67	.47	5.14
16	765 915 930 940	Inspector, Jr. Assembler, Electrical Assembler, Mechanical Utility Worker	1.50	2.25	3.75	.37	4.12	.41	4.53

Travel and Subsistence - Expenditures by the Contractor for the transportation of the persons directly engaged in the performance of the work hereunder and reasonable actual subsistence expense incurred during periods of travel in accordance with Contractor's established travel practices will be allowable direct costs under this contract. In addition, Contractor will be reimbursed an amount representing General and Administrative expense on Travel and Subsistence computed at 10% of such approved costs.

[Handwritten signature]
K.D.N.

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GENERAL PROVISIONS

1. DEFINITIONS

As used throughout this contract, the following terms shall have the meanings set forth below:

(a) The term "Secretary" means the Secretary, the Under Secretary, or any Assistant Secretary of the Department and the head or any assistant head of the executive agency; and the term "his duly authorized representative" means any person or persons or board (other than the Contracting Officer) authorized to act for the Secretary; and the term "Department" means that component of the Government having cognizance of this contract and represented by the Contracting Officer executing this contract.

(b) The term "Contracting Officer" means the person executing this contract on behalf of the Government, and any other officer or civilian employee who is a properly designated Contracting Officer; and the term includes, except as otherwise provided in this contract, the authorized representative of a Contracting Officer acting within the limits of his authority.

(c) Except as otherwise provided in this contract, the term "sub-contracts" includes purchase orders under this contract.

2. CHANGES

The Contracting Officer may at any time, by a written order, within the general scope of this contract, and without notice to any sureties, make changes in (i) drawings, designs, or specifications, (ii) direct the addition of work or services, (iii) make changes in method of shipping or packing, and (iv) make changes in place of delivery. If such changes require a change in the time of performance of the work called for hereunder, the contract shall be modified in writing accordingly. The hourly rate set forth in the schedule shall not be adjusted by reason of any change ordered under this clause.

3. INSPECTION

(a) All material and workmanship shall be subject to inspection and test by representatives of the Government. For this purpose, the Contractor shall allow, at all reasonable times, inspectors and other Government personnel free access to the plant and operations and shall furnish such facilities as may be required for the work. The Contractor shall inform the inspector when the work is ready for inspection. The Government representative shall have the right to (i) require the replacement of parts which are not in accordance with applicable specifications, and (ii) require the correction of defects.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the inspection of the supplies and services furnished under this contract. Records of all inspection work by the Contractor shall be kept complete and available to the Government during the performance of the contract.

(c) The Contractor agrees that it will employ only qualified and competent employees in the performance of this contract and that the services performed will conform to the highest professional standards for the work involved.

(d) Prior to final acceptance by the Government, any correction of defects in supplies or services, or replacement of materials to make the item conform to contract requirements, which correction or replacement is made necessary by inferior workmanship or materials, shall be at no cost to the Government.

(e) Final acceptance by the Government shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud. The Contractor shall, before or after final acceptance, remedy defects or failures due to such causes at no cost to the Government.

4. PAYMENTS

The Contractor shall be paid as follows upon the submission of properly certified invoices or vouchers approved by the Contracting Officer:

(a) **Time Rate.**

(i) The amounts computed by applying the appropriate time rate or rates set forth in the schedule to the number of direct labor hours performed, which rates shall include wages, overhead, general and administrative expense and profit. Fractional parts of an hour shall be payable on a pro-rated basis. The Contractor will substantiate vouchers by evidence of actual payment and by individual daily job timecards, preferably signed by the workers performing the services. Payments will normally be made at Contractor's payroll intervals, but may be varied by the Contracting Officer if conditions so warrant.

(ii) Notwithstanding the provisions of subparagraph (i) hereof, the Contracting Officer, as provided in the schedule, shall withhold payment of certain amounts due under this contract. Such amounts shall become payable upon completion of this contract.

(iii) Unless provisions of the schedule hereof otherwise specify, the hourly rate or rates set forth in the schedule shall not be varied by virtue of the Contractor having performed work on an overtime basis. If the schedule provides rates for overtime, the premium portion of those rates will not be reimbursable unless the overtime is approved in writing by the Contracting Officer.

(b) Materials (Including Subcontracts).

(i) Allowable costs of direct materials shall be determined by the Contracting Officer in accordance with Part 2, Section IV, of the Armed Services Procurement Regulation. The Contractor shall support all material costs claimed by submitting paid invoices or storeroom requisitions.

(ii) The Cost of subcontracts which are authorized pursuant to the clause hereof entitled "Subcontracts" shall be reimbursable costs hereunder.

(iii) The Contractor shall, to the extent of its ability, procure materials at the most advantageous prices available, with due regard to securing prompt delivery of satisfactory materials, take all cash and trade discounts, rebates, allowances, credits, salvage, commissions, and bonifications, and when unable to take advantage of such benefits it shall promptly notify the Contracting Officer to that effect and the reason therefor. Credit shall be given to the Government for cash and trade discounts, rebates allowances, credits, salvage, the value of resulting scrap, when the amount of such scrap is appreciable, commissions and bonifications which have accrued to the benefit of the Contractor or would have so accrued except for the fault or neglect of the Contractor. Such benefits lost through no fault or neglect on the part of the Contractor or lost through fault of the Government, shall not be deducted from gross costs.

(c) As of the date of execution of this contract, there has been allotted for it the total sum set forth in the schedule. This sum may be increased from time to time by the Government solely at its discretion, and the contract shall be amended accordingly. Notwithstanding any other provisions of this contract, the Contractor shall not be obligated to perform any services, pursuant hereto, the aggregate price of which when added to the aggregate price of all services theretofore furnished pursuant hereto would exceed said sum. If at any time the Contractor considers it likely that the aggregate amount set forth in the schedule may be exceeded within 45 days, the Contractor will so notify the Contracting Officer and the parties may thereupon enter into negotiations for an amendment to or modification of this contract, as may be appropriate. Anything in this contract to the contrary notwithstanding, the Government shall not be obligated to pay to the Contractor any amount in excess of the sum allotted for this contract.

(d) In addition to the foregoing, the Government shall pay the Contractor upon approval by the Contracting Officer such other allowable costs, plus reasonable profit, as may be incurred from time to time in support of the Government's needs hereunder.

(e) A minimum charge, if applicable, as provided in PART IV(d) of the Schedule.

5. ASSIGNMENT OF CLAIMS

(a) Pursuant to the provisions of the Assignment of Claims Act of 1940 as amended (31 U.S. Code 203, 41 U. S. Code 15), if this contract provides

for payments aggregating \$1,000 or more, claims for moneys due or to become due to the Contractor from the Government under this contract may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency, and may thereafter be further assigned and re-assigned to any such institution. Any such assignment or reassignment shall cover all amounts payable under this contract and not already paid, and shall not be made to more than one party, except that any such assignment or reassignment may be made to one party or agent or trustee for two or more parties participating in such financing. Notwithstanding any other provision of this contract, payment to an assignee of any moneys due or to become due under this contract shall not, to the extent provided in said Act as amended, be subject to reduction or set-off.

(b) In no event shall copies of this contract or of any plans, specifications, or other similar documents relating to work under this contract, if marked "TOP SECRET," "SECRET," "CONFIDENTIAL," be furnished to any assignee of any claim arising under this contract or to any other person not entitled to receive the same; PROVIDED, that a copy of any part or all of this contract so marked may be furnished, or any information contained therein may be disclosed, to such assignee upon the prior written authorization of the Contracting Officer.

(c) The Contractor shall obtain the written authorization of the Contracting Officer prior to the assignment of any rights under this contract.

6. RECORDS

(a) (1) The Contractor agrees to maintain books, records, documents and other evidence pertaining to the costs and expenses of this contract (hereinafter collectively called the "records") to the extent and in such detail as will properly reflect all net costs, direct and indirect, of labor, materials, equipment, supplies and services, and other costs and expenses of whatever nature for which reimbursement is claimed under the provisions of this contract. The Contractor's accounting procedures and practices shall be subject to the approval of the Contracting Officer; provided, however, that no material change will be required to be made in the Contractor's accounting procedures and practices if they conform to generally accepted accounting practices and if the costs properly applicable to this contract are readily ascertainable therefrom.

(2) The Contractor agrees to make available at the office of the Contractor at all reasonable times during the period set forth in subparagraph (h) below any of the records for inspection, audit or reproduction by an authorized representative of the Department.

(3) In the event the Contracting Officer or any of his duly authorized representatives determines that his audit of the amounts reimbursed under this contract as transportation charges will be made at a place other than the office of the Contractor, the Contractor agrees to

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deliver, with the reimbursement voucher covering such charges or as may be otherwise specified within two years after reimbursement of charges covered by any such voucher, to such representative as may be designated for that purpose through the Contracting Officer such documentary evidence in support of transportation costs as may be required by the Contracting Officer or any of his duly authorized representatives.

(4) Except for documentary evidence delivered to the Government pursuant to subparagraph (3) above, the Contractor shall preserve and make available its records for a period of six years (unless a longer period of time is provided by applicable statute) from the date of the voucher or invoice submitted by the Contractor after the completion of the work under the contract and designated by the Contractor as the "completion voucher" or "completion invoice" or, in the event this contract has been completely terminated, from the date of the termination settlement agreement; provided, however, that records which relate to (A) appeals under the clause of this contract entitled "Disputes," (B) litigation or the settlement of claims arising out of the performance of this contract, or (C) costs or expenses of the contract as to which exception has been taken by the Contracting Officer or any of his duly authorized representatives, shall be retained by the Contractor until such appeals, litigation, claims, or exceptions have been disposed of, but in no event for less than the six-year period mentioned above.

(5) Except for documentary evidence delivered pursuant to subparagraph (3) above, and the records described in the proviso of subparagraph (4) above, the Contractor may in fulfillment of its obligation to retain its records as required by this clause substitute photographs, microphotographs or other authentic reproductions of such records, after the expiration of two years following the last day of the month of reimbursement to the Contractor of the invoice or voucher to which such records relate, unless a shorter period is authorized by the Contracting Officer with the concurrence of the Comptroller of the Contracting Government Agency or his authorized representatives.

(6) The provisions of this paragraph (a), including this subparagraph (6), shall be applicable to and included in each subcontract hereunder which is on a cost, cost-plus-a-fixed-fee, time-and-material or labor-hour basis.

(b) The Contractor further agrees to include in each of his subcontracts hereunder, other than those set forth in subparagraph (a)(6) above, a provision to the effect that the subcontractor agrees that the Contracting Officer or any of his duly authorized representatives, shall, until the expiration of three years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor involving transactions related to the subcontract. The term "subcontract," as used in this paragraph (b) only, excludes (i) purchase orders not exceeding \$1,000 and (ii) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

7. EXCUSABLE DELAYS

The Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if such failure arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes include, but are not restricted to: acts of God or of the public enemy; acts of the Government; fires; floods; epidemics; quarantine restrictions; strikes; freight embargoes; unusually severe weather; and failure of subcontractors to perform or make progress due to such causes, unless the Contracting Officer shall have determined that the supplies or services to be furnished under the subcontract were obtainable from other sources and shall have ordered the Contractor in writing to procure such services or supplies from such other sources, and the Contractor shall have failed reasonably to comply with such order. Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of such failure and, if he shall determine that such failure was occasioned by any one or more of the said causes, the delivery schedule shall be revised accordingly, subject to the rights of the Government under the clause hereof entitled "Termination."

8. DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within thirty (30) days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent or capricious or arbitrary or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence, be final and conclusive; PROVIDED, that, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

9. BUY AMERICAN ACT

The Contractor agrees that there will be delivered under this contract only such unmanufactured articles, materials and supplies (which term "articles, materials and supplies" is hereinafter referred to in this clause as "supplies") as have been mined or produced in the United States, and only such manufactured supplies as have been manufactured in the United States substantially all

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from supplies mined, produced or manufactured, as the case may be, in the United States. Pursuant to the Buy American Act (41 U.S. Code 102-d), the foregoing provision shall not apply (i) with respect to supplies excepted by the Secretary from the application of that Act, (ii) with respect to supplies for use outside the United States, or (iii) with respect to the supplies to be delivered under this contract which are of a class or kind determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality, or (iv) with respect to such supplies from which the supplies to be delivered under this Contract are manufactured, as are of a class or kind, determined by the Secretary or his duly authorized representative not to be mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality; PROVIDED, that this exception (iv) shall not permit delivery of supplies manufactured outside the United States if such supplies are manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

10. CONVICT LABOR

In connection with the performance of work under this contract, the Contractor agrees not to employ any person undergoing sentence of imprisonment at hard labor.

11. EIGHT-HOUR LAW OF 1912

This contract, to the extent that it is of a character specified in the Eight-Hour Law of 1912 as amended (49 U. S. Code 324-326) and is not covered by the Walsh-Healey Public Contracts Act (41 U. S. Code 35-45) is subject to the following provisions and exceptions of said Eight-Hour Law of 1912 as amended, and to all other provisions and exceptions of said Law:

No laborer or mechanic doing any part of the work contemplated by this contract, in the employ of the Contractor shall be required or permitted to work more than eight hours in any one calendar day upon such work, except upon the condition that compensation is paid to such laborer or mechanic in accordance with the provisions of this clause. The wages of every such laborer and mechanic employed by the Contractor shall be computed on a basic day rate of eight hours per day; and work in excess of eight hours per day is permitted only upon the condition that every such laborer and mechanic shall be compensated for all hours worked in excess of eight hours per day at not less than one-and-one-half times the basic rate of pay. For each violation of the requirements of this clause a penalty of five dollars shall be imposed upon the Contractor for each such laborer or mechanic for every calendar day in which such employee is required or permitted to labor more than eight hours upon said work without receiving compensation computed in accordance with this clause; and all penalties thus imposed shall be withheld for the use and benefit of the Government.

12. WALSH-HEALEY PUBLIC CONTRACTS ACT

If this contract is for the manufacture or furnishing of materials, supplies, articles or equipment in an amount which exceeds or may exceed \$10,000 and is otherwise subject to the Walsh-Healey Public Contracts Act as amended (41 U. S. Code 35-45), there are hereby incorporated by reference all representatives and stipulations required by said Act and regulations issued thereunder by the Secretary of Labor, such representations and stipulations being subject to all applicable rulings and interpretations of the Secretary of Labor which are now or may hereafter be in effect, except that the Contractor shall not be required to include this clause in subcontracts issued hereunder when the inclusion of this clause in a subcontract would jeopardize or conflict with the security considerations established in connection with this contract.

13. NONDISCRIMINATION IN EMPLOYMENT

(a) In connection with the performance of work under this contract, the Contractor agrees not to discriminate against any employee or applicant for employment because of race, religion, color, or national origin. The aforesaid provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post hereafter in conspicuous places, available for employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of the nondiscrimination clause.

(b) The Contractor further agrees to insert the foregoing provision in subcontracts issued hereunder, except subcontracts for standard commercial supplies or raw materials, and except as insertion of the foregoing provision in a subcontract would jeopardize or conflict with the security considerations established in connection with this contract.

14. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this contract, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this contract if made with a corporation for its general benefit.

15. COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or

selling agencies maintained by the contractor for the purpose of securing business. For breach or violation of this warranty the Government shall have the right to annul this contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

16. REPORTING OF ROYALTIES

The provisions of this clause shall be applicable only if the amount of the contract is in excess of \$10,000.

(a) The Contractor shall report in writing (in quadruplicate) to the Contracting Officer as soon as practicable after execution of this contract whether or not any royalties in excess of \$250 have been paid or are to be paid by the Contractor directly to any person or firm in connection with the performance of this contract. If royalties in excess of \$250 have been paid or are to be paid to any person or firm, the report shall include the following items of information with respect to such royalties (including the initial \$250):

(1) The name and address of each licensor to whom royalties in excess of \$250 have been paid or are to be paid,

(2) The patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties,

(3) The manner of computing the royalties consisting of (i) a brief identification of each royalty-bearing unit or process, (ii) the total amount of royalties, and (iii) the percentage rate or dollars and cents amount of royalties on each such unit or process; PROVIDED that if the royalties cannot be computed in terms of units or dollars and cents value, then other data showing the manner in which the Contractor computes the royalties.

(b) In lieu of furnishing a report under paragraph (a), the Contractor may furnish a single, consolidated report for each accounting period of the Contractor during which the Contractor has contracts with the Government, provided the Contractor has requested and obtained the prior written approval of the Contracting Officer. Such consolidated report shall be furnished, when the furnishing thereof has been approved, in the number of copies as approved, as soon as practicable after the close of the accounting period covered by the report. Such consolidated report shall be made in accordance with Contractor's established accounting practice and shall include, for the accounting period, the total amount of royalties accruing to each licensor at a rate in excess of \$1,000 per annum on the Contractor's over-all business, together with (i) the name and address of each such licensor, (ii) the patent numbers, patent application serial numbers (with filing dates), or other identification of the basis for such royalties, (iii) a brief description

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of the subject matter of the license under which royalties are charged, (iv) the percentage rate or unit amount, or if the royalties do not accrue by rate or unit amount, such other data showing the manner by which the royalties accrue to licensor, and (v) an estimate or approximation (without detailed accounting) of the portion of such royalties that may be attributable to Government contracts. The Contractor shall, if requested by the Government, furnish at Government expense a more detailed allocation of such royalty payments attributable to Government Contracts.

(e) In the event that the Contractor requests written approval to furnish consolidated reports under paragraph (b) above, the Contracting Officer shall promptly consider the request and furnish to the Contractor a letter stating whether or not the request is approved and, notwithstanding any such approval, the Contracting Officer shall have the right to question any such subsequently furnished report as to accuracy or completeness of data and to ask for additional information. The Contractor shall furnish a copy of such letter of approval to the Contracting Officer administering this contract.

(d) After payment of eighty percent (80%) of the amount of this contract, as from time to time amended, further payment shall be withheld until a reserve of either (i) ten percent (10%) of such amount or (ii) \$5,000, whichever is less, shall have been set aside, such reserve or the balance thereof to be retained until the Contractor shall have furnished to the Contracting Officer the report called for by paragraph (a) hereof or the copy of the letter approving the Contractor's request to furnish the report under paragraph (b); PROVIDED that no amount shall continue to be withheld from payment for the causes specified in this paragraph (d) if the Contracting Officer shall find that the Contractor has not been furnished a letter as required by paragraph (c) within a reasonable time after making written request to submit a single, consolidated report under the provisions of paragraph (b) of this clause; and PROVIDED FURTHER that the Contracting Officer may, in his discretion, order payment to be withheld in the amount and manner above provided if the report called for by paragraph (b) is due but has not been received, or if received, is found to be unsatisfactory. No amount shall be withheld under this paragraph when the minimum amount specified by this paragraph is being withheld under other provisions of this contract. The withholding of any amount or subsequent payment thereof to the Contractor shall not be construed as a waiver of any right accruing to the Government under this contract.

17. NOTICE AND ASSISTANCE REGARDING PATENT INFRINGEMENT

The provisions of this clause shall be applicable only if the amount of this contract is in excess of \$5,000.

(a) The Contractor shall report to the Contracting Officer, promptly and in reasonable written detail, each notice or claim of patent infringement based on the performance of this contract of which the Contractor has knowledge.

(b) In the event of litigation against the Government on account of any claim of patent infringement arising out of the performance of this contract or out of the use of any supplies furnished or work or services performed hereunder, the Contractor shall furnish to the Government, upon request, all evidence and information in possession of the Contractor pertaining to such litigation. Such evidence and information shall be furnished at the expense of the Government except in those cases in which the Contractor has agreed to indemnify the Government against the claim being asserted.

18. FILING OF PATENT APPLICATIONS

(a) Before filing or causing to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Secret" or higher, the Contractor shall, citing the thirty (30) day provision below, transmit the proposed application to the Contracting Officer for determination whether, for reasons of national security, such application should be placed under an order of secrecy or sealed in accordance with the provisions of 35 U.S. Code 181-188 or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations; and the Contractor shall observe any instructions of the Contracting Officer with respect to the manner of delivery of the patent application to the U. S. Patent Office for filing, but the Contractor shall not be denied the right to file such patent application. If the Contracting Officer shall not have given any such instructions within thirty (30) days from the date of mailing or other transmittal of the proposed application, the Contractor may file the application.

(b) The Contractor shall furnish to the Contracting Officer, at the time of or prior to the time when the Contractor files or causes to be filed a patent application disclosing any subject matter of this contract, which subject matter is classified "Confidential," a copy of such application for determination whether, for reasons of national security, such application should be placed under an order of secrecy or the issuance of a patent should be otherwise delayed under pertinent statutes or regulations.

(c) In filing any patent application coming within the scope of this clause, the Contractor shall observe all applicable security regulations covering the transmission of classified subject matter.

19. COPYRIGHT

(a) The Contractor agrees to and does hereby grant to the Government, and to its officers, agents and employees acting within the scope of their official duties, (i) a royalty-free, nonexclusive and irrevocable license to reproduce, translate, publish, use, and dispose of, and to authorize others so to do, all copyrightable material first produced or composed and delivered to the Government under this contract by the Contractor, its employees or any individual or concern specifically employed or assigned to originate and prepare such material; and (ii) a license as aforesaid under

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any and all copyrighted or copyrightable work not first produced or composed by the Contractor in the performance of this contract but which is incorporated in the material furnished under this contract, provided that such license shall be only to the extent the contractor now has, or prior to completion or final settlement of the contract may acquire, the right to grant such license without becoming liable to pay compensation to others solely because of such grant.

(b) The Contractor agrees that it will exert all reasonable effort to advise the Contracting Officer, at the time of delivering any copyrightable or copyrighted work furnished under this contract, of any adversely held copyrighted or copyrightable material incorporated in any such work and of any invasion of the right of privacy therein contained.

(c) The Contractor agrees to report to the Contracting Officer, promptly and in reasonable written detail, any notice or claim of copyright infringement received by the Contractor with respect to any material delivered under this contract.

20. GRATUITIES

(a) The Government may, by written notice to the Contractor, terminate the right of the Contractor to proceed under this contract if it is found, after notice and hearing, by the Secretary or his duly authorized representative, that gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the Contractor, or any agent or representative of the Contractor, to any officer or employee of the Government with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performance of such contract; PROVIDED, that the existence of the facts upon which the Secretary or his duly authorized representative makes such findings shall be in issue and may be reviewed in any competent court.

(b) In the event this contract is terminated as provided in paragraph (a) hereof, the Government shall be entitled (i) to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor, and (ii) as a penalty in addition to any other damages to which it may be entitled by law, to exemplary damages in an amount (as determined by the Secretary or his duly authorized representative) which shall be not less than three nor more than ten times the costs incurred by the Contractor in providing any such gratuities to any such officer or employee.

(c) The rights and remedies of the Government provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

21. TERMINATION

(a) The performance of work under this contract may be terminated by the Government in accordance with this clause in whole, or from time to time in part, (1) whenever the Contractor shall default in performance of this

contract in accordance with its terms (including in the term default any such failure by the Contractor to make progress in the prosecution of the work hereunder as endangers such performance), and shall fail to cure such default within a period of 10 days (or such longer period as the Contracting Officer may allow) after receipt from the Contracting Officer of a notice specifying the default, or (2) whenever for any reason the Contracting Officer shall determine that such termination is in the best interests of the Government. Any such termination shall be effected by delivery to the Contractor of a Notice of Termination specifying whether termination is for the default of the Contractor or for the convenience of the Government, the extent to which performance of work under the contract is terminated, and the date upon which such termination becomes effective. If, after Notice of Termination of the contract for default under (1) above, it is determined that the Contractor's failure to perform or to make progress in performance is due to causes beyond the control and without the fault or negligence of the Contractor pursuant to the provisions of the clause of this contract entitled "Excusable Delays," the Notice of Termination shall be deemed to have been issued under (2) above, and the rights and obligations of the parties hereto shall in such event be governed accordingly.

(b) After receipt of a Notice of Termination and except as otherwise directed by the Contracting Officer, the Contractor shall (1) stop work under the contract on the date and to the extent specified in the Notice of Termination; (2) place no further orders or subcontracts for materials, services, or facilities except as may be necessary for completion of such portion of the work under the contract as is not terminated; (3) terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the Notice of Termination; (4) assign to the Government, in the manner and to the extent directed by the Contracting Officer all of the right, title, and interest of the Contractor under the orders or subcontracts so terminated; (5) with the approval or ratification of the Contracting Officer, which approval or ratification shall be final and conclusive for all the purposes of this clause, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable, in whole or in part, in accordance with the provisions of this contract; (6) transfer title (to the extent that title has not already been transferred) and, in the manner, to the extent, and at the times directed by the Contracting Officer, deliver to the Government (i) the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as a part of, or acquired in respect of the performance of, the work terminated by the Notice of Termination; (ii) the completed or partially completed plans, drawings, information, and other property which, if the contract had been completed, would be required to be furnished to the Government; and (iii) the jigs, dies, fixtures, and other special tools and tooling acquired or manufactured for the performance of this contract for the cost of which the Contractor has been or will be reimbursed under this contract; (7) use its best efforts to sell in the manner, at the times, to the extent, and at the price or prices directed or authorized by the Contracting Officer, any property of

the types referred to in provision (6) of this paragraph; PROVIDED, HOWEVER, That the Contractor (i) shall not be required to extend credit to any purchaser, and (ii) may acquire any such property under the conditions prescribed by and at a price or prices approved by the Contracting Officer: AND PROVIDED FURTHER, That the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by the Government to the Contractor under this contract or shall otherwise be credited to the price or cost of work covered by this contract or paid in such manner as the Contracting Officer may direct; (8) complete performance of such part of the work as shall not have been terminated by the Notice of Termination; and (9) take such action as may be necessary, or as the Contracting Officer may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Government has or may acquire an interest. The Contractor shall proceed immediately with the performance of the above obligations notwithstanding any delay in determining or adjusting any amount reimbursable under the provisions of this clause. At any time after expiration of the plant clearance period, as defined in Section VIII Armed Services Procurement Regulation, as it may be amended from time to time, the Contractor may submit to the Contracting Officer a list, certified as to quantity and quality, of any or all items of termination inventory not previously disposed of, exclusive of items the disposition of which has been directed or authorized by the Contracting Officer, and may request the Government to remove such items or enter into a storage agreement covering them. Not later than fifteen (15) days thereafter, the Government will accept title to such items and remove them or enter into a storage agreement covering the same, provided that the list submitted shall be subject to verification by the Contracting Officer upon removal of the items, or if the items are stored, within forty-five (45) days from the date of submission of the list, and any necessary adjustment to correct the list as submitted shall be made prior to final settlement.

(c) After receipt of a Notice of Termination, the Contractor shall submit to the Contracting Officer its termination claim, in the form and with the certification prescribed by the Contracting Officer. Such claim shall be submitted promptly but in no event later than 2 years from the effective date of termination, unless one or more extensions in writing are granted by the Contracting Officer upon request of the Contractor made in writing within such 2-year period or authorized extension thereof. However, if the Contracting Officer determines that the facts justify such action, he may receive and act upon any such termination claim at any time after such 2-year period or any extension thereof. Upon failure of the Contractor to submit its termination claim within the time allowed, the Contracting Officer may determine, on the basis of information available to him, the amount if any due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

(d) Subject to the provisions of paragraph (c), the Contractor and the Contracting Officer may agree upon the whole or any part of the amount or amounts to be paid to the Contractor by reason of the total or partial termination of work pursuant to this clause which amount or amounts may include a reasonable allowance for profit on work done. The contract shall be amended accordingly, and the Contractor shall be paid the agreed amount.

(e) In the event of the failure of the Contractor and the Contracting Officer to agree in whole or in part, as provided in paragraph (d) above, as to the amounts to be paid to the Contractor in connection with the termination of work pursuant to this clause, the Contracting Officer shall determine on the basis of information available to him the amount, if any, due to the Contractor by reason of the termination and shall pay to the Contractor the amount determined as follows:

(1) If the termination of the contract is for the convenience of the Government:

(i) There shall be included for direct labor hours (as defined in the Schedule of the contract) an amount which shall be determined by multiplying the number of direct labor hours expended prior and up to the effective date of termination by the hourly rate or rates set forth in the Schedule less any hourly rate payments theretofore made to the Contractor.

(ii) There shall be included therein all costs of material reimbursable in accordance with this contract, not previously paid to the Contractor for the performance of this contract prior to the effective date of the Notice of Termination.

(iii) There shall be included therein the reasonable costs of settlement, including accounting, legal, clerical, and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of termination inventory.

(2) If the Termination of the contract is for the default of the Contractor:

(i) There shall be included for all direct labor hours (as defined in the Schedule of the contract) an amount which shall be determined by multiplying the number of direct labor hours expended prior and up to the effective date of termination by the hourly rate or rates set forth in the Schedule less the profit factor contained therein as indicated in the Schedule and less any hourly rate payments theretofore made.

(ii) There shall be included therein such costs as are set forth in subparagraphs (1)(ii) and (iii) of this paragraph (e): PROVIDED, HOWEVER, That there shall not be included any amounts for the preparation of the Contractor's Settlement Proposal.

(3) If the amount determined under subparagraphs (1) and (2), above, is less than the total payments theretofore made to the Contractor, the Contractor shall repay the excess amount to the Government.

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(f) The Contractor shall have the right of appeal, under the clause of this contract entitled "Disputes," from any determination made by the Contracting Officer under paragraphs (c) or (e) above, except that if the Contractor has failed to submit its claim within the time provided in paragraph (e) above, and has failed to request extension of such time, it shall have no such right of appeal. In any case where the Contracting Officer has made a determination of the amount due under paragraph (c) or (e) above, the Government shall pay to the Contractor the following: (i) if there is no right of appeal hereunder or if no timely appeal has been taken, the amount so determined by the Contracting Officer, or (ii) if an appeal has been taken, the amount finally determined on such appeal.

(g) In arriving at the amount due to the Contractor under this clause there shall be deducted (1) all unliquidated advances or other unliquidated payments theretofore made to the Contractor, (2) any claim which the Government may have against the Contractor in connection with this contract, and (3) the agreed price for, or the proceeds of sale of any materials, supplies, or other things acquired by the Contractor or sold pursuant to the provisions of this clause and not otherwise recovered by or credited to the Government.

(h) In the event of a partial termination, the portion of the contract relating to hourly rates which are payable with respect to the work under the continued portion of the contract shall be equitably adjusted by agreement between the Contractor and the Contracting Officer, and such adjustment shall be evidenced by an amendment to this contract.

(i) The Government may from time to time, under such terms and conditions as it may prescribe, make partial payments and payments on account against costs incurred by the Contractor in connection with the terminated portion of the contract whenever in the opinion of the Contracting Officer the aggregate of such payments shall be within the amount to which the Contractor will be entitled hereunder. If the total of such payments is in excess of the amount finally determined to be due under this clause, such excess shall be payable by the Contractor to the Government upon demand, together with interest computed at the rate of 6 percent per annum, for the period from the date such excess is repaid to the Government; PROVIDED, HOWEVER, That no interest shall be charged with respect to any such excess payment attributable to a reduction in the Contractor's claim by reason of retention or other disposition of termination inventory until 10 days after the date of such retention or disposition.

(j) Unless otherwise provided for in this contract, or by applicable statute, the Contractor from the effective date of termination and for a period of 6 years after final settlement under this contract shall preserve and make available to the Government at all reasonable times at the office of the Contractor, but without direct charge to the Government, all its books, records, documents, and other evidence bearing on the cost and expenses of the Contractor under this contract and relating to the work terminated hereunder, or, to the extent approved by the Contracting Officer, photographs, microphotographs, or other authentic reproductions thereof.

22. MILITARY SECURITY REQUIREMENTS

- (a) The provisions of this clause shall apply to the extent that this contract involved access to security information classified "Top Secret," "Secret," or "Confidential."
- (b) The Government shall notify the Contractor of the security classification of this contract and the elements thereof, and of any subsequent revisions in such security classification.
- (c) To the extent the Government has indicated as of the date of this contract, or thereafter indicates, security classification under this contract as provided in paragraph (b) above, the Contractor shall safeguard all classified elements of this contract and shall provide and maintain a system of security controls within its own organization in accordance with the requirements of (i) the Department of Defense Industrial Security Manual for Safeguarding Classified Security Information as in effect on date of this contract, which Manual is hereby incorporated by reference and made a part of this contract, (ii) any amendments to said Manual required by the demands of national security as determined by the Government and made after the date of this contract, notice of which has been furnished to the Contractor by the Contracting Officer, and (iii) those provisions of written agreements entered into by the parties pertaining to the adaptation of the Manual to the Contractor's business.
- (d) Designated representatives of the Government responsible for inspection pertaining to industrial security shall have the right to inspect at reasonable intervals the procedures, methods, and facilities utilized by the Contractor in complying with the requirements of the terms and conditions of this clause. Should the Government, through its authorized representative, determine that the Contractor has not complied with such requirements, the Government shall inform the Contractor in writing of the proper actions to be taken in order to effect compliance with such requirements.
- (e) If, subsequent to the date of this contract, the security classifications or requirements under this contract are changed by the Government as provided in this clause and the security costs under this contract are thereby increased or decreased, the contract price shall be subject to an equitable adjustment by reason of such increased or decreased costs. Any equitable adjustment shall be accomplished in the same manner as if such changes were directed under the clause in this contract entitled "Changes."
- (f) The Contractor agrees to insert, in all subcontracts hereunder which involve access to classified security information, provisions which shall conform substantially to the language of this clause, including this paragraph (f) but excluding the last sentence of paragraph (e) of this clause.
- (g) The Contractor also agrees that it shall determine that any subcontractor proposed by it for the furnishing of supplies and services which will involve access to classified security information in the Contractor's custody has been granted an appropriate facility security clearance, which is still in effect, prior to being accorded access to such classified security information.

SECRET**23. GOVERNMENT-FURNISHED PROPERTY**

(a) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the property which the schedule, appendix, or the specifications state the Government will furnish (hereinafter referred to as "Government-Furnished property"). The delivery or performance dates for the supplies or services to be furnished by the Contractor under this contract are based upon the expectation that Government-Furnished property of a type suitable for use will be delivered to the Contractor at the times stated in the schedule or if not so stated in sufficient time to enable the Contractor to meet such delivery or performance dates. In the event that Government-Furnished property is not delivered to the Contractor by such time or times, the Contracting Officer shall, if requested by the Contractor, make a determination of the delay occasioned the Contractor thereby, and shall grant to the Contractor a reasonable extension of time in respect of such delivery or performance dates. The Government shall not be liable to the Contractor for damages or loss of profit by reason of any delay in delivery of or failure to deliver any or all of the Government-Furnished property, except that in case of such delay or failure, upon the written request of the Contractor, an equitable adjustment shall be made in the delivery or performance dates, or price, or both, or in any other contractual provision affected thereby, in accordance with the procedures provided for in the clause of the contract entitled "Changes."

(b) By notice in writing the Contracting Officer may decrease the property furnished or to be furnished by the Government under this contract. In any such case, upon the written request of the Contractor, an equitable adjustment shall be made in the delivery or performance dates, or prices, or both, and in any other contractual provision affected by such decrease, in accordance with the procedures provided for in the clause of this contract entitled "Changes."

(c) Title to the Government-Furnished property shall remain in the Government. Title to Government-Furnished property shall not be affected by the incorporation or attachment thereof to any property not owned by the Government, nor shall such Government-Furnished property, or any part thereof, be or become a fixture or lose its identity as personalty by reason of affixation to any realty.

(d) The Government-Furnished property shall, unless otherwise provided herein, be used only for the performance of this contract.

(e) The Contractor shall maintain and administer, in accordance with sound industrial practice, a program for the maintenance, repair, protection and preservation of Government-Furnished property, until disposed of by the Contractor in accordance with this clause. In the event that damaged or defective Government-Furnished property is delivered to the Contractor, or any other damage occurs to Government-Furnished property, the risk of which has been assumed by the Government under this contract, the Government shall replace such items or the Contractor shall make such repair of the property as the Government directs; PROVIDED, HOWEVER, that if the Contractor cannot effect such repair within the time required, the

Contractor may reject such property. The contract price includes no compensation to the Contractor for the performance or any repair or replacement for which the Government is responsible, and an equitable adjustment will be made in the contract price for any such repair or replacement of Government-Furnished property made at the direction of the Government. Any repair or replacement for which the Contractor is responsible under the provisions of this contract shall be accomplished by the Contractor at its own expense.

(f) (1) Except for loss, destruction or damage resulting from a failure of the Contractor due to willful misconduct or lack of good faith of any of the Contractor's managerial personnel as defined herein, to maintain and administer the program for the maintenance, repair, protection and preservation of the Government-Furnished property, as required by paragraph (e) hereof, and except as specifically provided in this contract, the Contractor shall not be liable for loss or destruction of or damage to the Government-Furnished property (A) caused by any peril while the property is in transit off the Contractor's premises, or (B) caused by any of the following perils while the property is on the Contractor's or subcontractor's premises, or on any other premises where such property may properly be located, or by removal therefrom because of any of the following perils:

(I) Fire; lightning; windstorm; cyclone; tornado; hail; explosion; riot, riot attending a strike, civil commotion; vandalism and malicious mischief; sabotage; aircraft or object falling therefrom; vehicles running on land or tracks, excluding vehicles owned or operated by the Contractor or any agent or employee of the Contractor; smoke; sprinkler leakage; earthquake or volcanic eruption; flood, meaning thereby rising of a body of water; hostile or warlike action, including action in hindering, combating, or defending against an actual, impending or expected attack by any government or sovereign power (de jure or de facto), or by an authority using military, naval, or air forces, or by an agent of any such government, power, authority, or forces; or

(II) Other peril, of a type not listed above, if such other peril is customarily covered by insurance (or by a reserve for self-insurance) in accordance with the normal practice of the Contractor, or the prevailing practice in the industry in which the Contractor is engaged with respect to similar property in the same general locale.

The perils as set forth in (A) and (B) above are hereinafter called "excepted perils."

The term "Contractor's managerial personnel" as used herein means the Contractor's directors, officers and any of its managers, superintendents, or other equivalent representatives who have supervision or

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direction of (I) all or substantially all of the Contractor's business;
(II) all or substantially all of the Contractor's operation at any one plant or separate location at which the contract is being performed;
(III) a separate and complete major industrial operation in connection with the performance of this contract.

(ii) The Contractor represents that it is not including in the price hereunder, and agrees that it will not hereafter include in any price to the Government, any charge or reserve for insurance (including self-insurance funds or reserves covering loss or destruction of or damage to the Government-Furnished property caused by any excepted peril).

(iii) Upon the happening of loss or destruction of or damage to any Government-Furnished property caused by an excepted peril, the Contractor shall notify the Contracting Officer thereof, and shall communicate with the Loss and Salvage Organization, if any, now or hereafter designated by the Contracting Officer, and with the assistance of the Loss and Salvage Organization so designated (unless the Contracting Officer has directed that no such organization be employed), shall take all reasonable steps to protect the Government-Furnished property from further damage, separate the damaged and undamaged Government-Furnished property in the best possible order, and furnish to the Contracting Officer a statement of: (A) the lost, destroyed and damaged Government-Furnished property, (B) the time and origin of the loss, destruction or damage, (C) all known interests in commingled property of which the Government-Furnished property is a part, and (D) the insurance, if any, covering any part of or interest in such commingled property. The Contractor shall be reimbursed for the expenditures made by it in performing its obligations under this subparagraph (iii) (including charges made to the Contractor by the Loss and Salvage Organization, except any of such charges the payment of which the Government has, at its option, assumed directly), to the extent approved by the Contracting Officer and set forth in a Supplemental Agreement.

(iv) With the approval of the Contracting Officer after loss or destruction of or damage to Government-Furnished property, and subject to such conditions and limitations as may be imposed by the Contracting Officer, the Contractor may, in order to minimize the loss to the Government or in order to permit resumption of business or the like, sell for the account of the Government any item of Government-Furnished property which has been damaged beyond practicable repair, or which is so commingled or combined with property of others, including the Contractor, that separation is impracticable.

(v) Except to the extent of any loss or destruction of or damage to Government-Furnished property for which the Contractor is relieved of liability under the foregoing provisions of this clause, and except for reasonable wear and tear or depreciation, or the utilization of the Government-Furnished property in accordance with the provisions of this contract, the Government-Furnished property (other than property permitted to be sold) shall be returned to the Government in as good condition as when received

by the Contractor in connection with this contract, or as repaired under paragraph (e) above.

(vi) In the event the Contractor is reimbursed or compensated for any loss or destruction of or damage to the Government-Furnished property, caused by an excepted peril, it shall equitably reimburse the Government. The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any such loss, destruction or damage and, upon the request of the Contracting Officer, shall at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery.

(g) The Contracting Officer or his duly authorized representative shall at all reasonable times have access to the premises wherein any Government-Furnished property is located.

(h) Upon the completion of this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government-Furnished property not consumed in the performance of this contract (including any resulting scrap), or not theretofore delivered to the Government, and shall deliver or make such other disposal of such Government-Furnished property, as may be directed or authorized by the Contracting Officer. Recoverable scrap from Government-Furnished Property shall be reported in accordance with a procedure and in such form as the Contracting Officer may direct. The net proceeds of any such disposal shall be credited to the contract price or shall be paid in such other manner as the Contracting Officer may direct.

(i) Directions of the Contracting Officer and communications of the Contractor issued pursuant to this clause shall be in writing.

24. EMPLOYMENT OF ALIENS

If this contract calls for furnishing or constructing aircraft, aircraft parts, or aeronautical accessories, no aliens employed by the Contractor shall be permitted to have access to the plans or specifications, or the work under construction, or to participate in the contract trials, without the written consent beforehand of the Secretary or his duly authorized representative.

25. SUBCONTRACTS

(a) No contracts shall be made by the Contractor for the furnishing of any of the work herein contracted for without the written approval of the Contracting Officer. For the purposes of this clause, purchase of raw material or commercial stock items shall not be considered work.

(b) The Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost-plus-percentage-of-cost basis.